

TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

06 October 2014

Report of the Director of Finance and Transformation

Part 1- Public

Delegated

1 LOCAL AUDIT AND ACCOUNTABILITY ACT 2014

This report provides an update on issues covered by the Local Audit and Accountability Act 2014 and our response to the latest Consultation about secondary legislation needed to give effect to the new local audit arrangements.

1.1 Introduction

1.1.1 The Local Audit and Accountability Act 2014 received Royal Assent on 31 January 2014. Its origins go back to the early months of the coalition government when it announced plans to disband the Audit Commission and replace it with a **new decentralised audit regime** where local authorities are free to appoint their own external auditors while ensuring that there continues to be robust local public audit.

1.1.2 Consultations and a draft Bill followed. Members will recall that we had reservations about the proposals which we set out in our response/s to the consultations that followed. Nonetheless, it was apparent the Government intended to press ahead with its plans leading to the Local Audit and Accountability Act 2014.

1.1.3 When the Bill was formally introduced into Parliament in May 2013 the government had introduced two new provisions – one relating to the local authority publicity code and the other adjusting the provisions for referendums on rises in council tax. Further provisions were added during the parliamentary process on transparency of council meetings and the conduct of parish polls.

1.2 New Decentralised Audit Regime

1.2.1 The Act abolishes the Audit Commission and replaces it with a new local audit framework, giving local public bodies the freedom, with safeguards, to appoint their own external auditors and manage their own audit arrangements where audit quality is regulated within a statutory framework.

- 1.2.2 The Audit Commission will retain responsibility to let and manage public audit contracts to the bodies which come under its remit until 31 March 2015. As Members are aware the Audit Commission has outsourced the work of its in-house audit practice to four private firms. Contracts in the London (South) Surrey and Kent area were let to Grant Thornton from 2012/13 for a five-year period with the option of a further three-year extension and will, therefore, need to be managed past the abolition of the Audit Commission. This responsibility is to transfer to the LGA along with value for money tools and Housing Benefit grant certification.
- 1.2.3 As a result councils could be responsible for appointing external auditors from 2017 at the earliest (by 31 December 2016) or 2020 (by December 2019) if the government decides to extend the contracts by three years.
- 1.2.4 To recap, the main issues set out in the Act are as follows:
- The accounts of a relevant authority must be audited by an auditor appointed by that authority in accordance with the Act.
 - The relevant authority must appoint an auditor (either individually or jointly with other local authorities) to audit its accounts for the financial year not later than 31 December in the preceding financial year (the appointment to be made by full Council). Appointment may be for more than one financial year, but the authority must make a further appointment of an auditor at least once every five years.
 - The relevant authority must consult and take into account the advice of an independent auditor panel on the selection and appointment of an auditor.
 - The independent auditor panel is to consist of a majority of independent members (or wholly of independent members) and must be chaired by an independent member. Deemed independent if the panel member has not been a member or officer of the authority within the period of five years; officer or employee of an entity connected with the authority; a relative or close friend of a member or officer of the authority or an officer or employee of an entity connected with the authority.
 - An independent auditor panel must advise the authority on the selection and appointment of an auditor to audit its accounts; and advise the authority on the maintenance of an independent relationship with the auditor appointed to audit its accounts.
 - The relevant authority must within the period of 28 days beginning with the day on which the appointment is made, publish a notice about the appointment on its website.
 - If the authority fails to appoint an auditor the authority must inform the Secretary of State. The Secretary of State may direct the authority to

appoint the auditor named in the direction, or approach an auditor on behalf of the authority.

- The Secretary of State to make regulations concerning the process for a local auditor to resign or be removed.
- Auditors will continue to be required to comply with a code of practice developed by the Comptroller and Auditor General of the National Audit Office and approved by Parliament.
- The auditor retains the power to issue an advisory note where it appears that the audited body may be about to undertake unlawful expenditure.
- The Financial Reporting Council will become the overall regulator of audit standards.
- The professional accountancy bodies are identified as recognised supervisory bodies charged with putting in place eligibility rules for those firms wanting to be appointed as local public auditors and the qualifications and experience required to be able to sign off a local audit report.
- The right of local electors to inspect local authorities' accounts and related documents, without payment, is retained. So is the right to lodge an objection to any items within the accounts, but has been limited in the new Act so as to give the auditor discretion over whether to investigate.
- Statutory responsibility for the National Fraud Initiative will transfer to the Cabinet Office.
- The Audit Commission's work in helping to tackle fraud and corruption will transfer to a new Counter Fraud Centre being established by the Chartered Institute of Public Finance and Accountancy. This will include taking over responsibility for the annual '*Protecting the public purse*' report.

1.2.5 Powers were added to the Act during its parliamentary process to enable the establishment of sector-led collective procurement arrangements. Under such arrangements, authorities would be able to opt-in and have an auditor appointed on their behalf by a body (an 'appointing person') specified by the Secretary of State. Any decision to opt-in to collective procurement will need to be taken by full Council. Regulations introduced to disapply or modify the Act's other provisions to facilitate collective procurement arrangements. Most significantly, those audited bodies that opt-in **will no longer be under a duty to have an auditor panel**.

1.2.6 The LGA has been in talks with local authorities to establish how many would be willing to use the services of a sector-led procurement body and is clearly a proposal that we are interested in exploring further. The prospects for such an arrangement are increasing with the announcement that the LGA will manage the current national contracts when the Audit Commission is abolished.

1.3 Further Provisions covered by the Act

1.3.1 The Act also:

- Allows the Secretary of State to direct local authorities to comply with the local authority publicity code.

Related issue – continued statutory requirement on local authorities to publish statutory notices in local newspapers. It is a generally held view that this is now an expensive and outdated method of communication.

- Amends the legislative framework for council tax referendums to provide that increases set by levying bodies are taken into account in determining whether the council tax increase for a forthcoming financial year is excessive. This must be done with reference to principles set out by the Secretary of State including a nationally prescribed maximum percentage increase. Where a local authority is seeking to set an excessive council tax increase, it can only be implemented if local electors vote in favour of it.

Related issue – as local authorities have no formal powers to reduce or reject levies charged to the council tax, even after a referendum, they would have to absorb any excessive levy increase via a reduction to their own budgets.

- Gives the Secretary of State power to increase access and transparency of local authority meetings held in public, including giving citizens and the press the explicit right to film and tweet from any meeting held in public.
- Allows the Secretary of State to amend the legislative framework governing the conduct of parish polls.

1.4 Latest Consultation Paper

- 1.4.1 On 19 June 2014 the Department for Communities and Local Government published a Consultation about secondary legislation needed to give effect to the new local audit arrangements. Two of the four areas covered by the Consultation are not of particular relevance to us, i.e. modification of the Act in relation to smaller authorities; and Transparency Code for internal drainage boards, charter trustees and port health authorities. The two areas which are relevant to us are as follows:

Specification of Collective Procurement body

- 1.4.2 Paragraphs 1.2.5 and 1.2.6 refer.

Accounts and Audit Regulations

- 1.4.3 New Accounts and Audit Regulations to be made under Section 32 of the Local Audit and Accountability Act 2014.

1.4.4 The two key changes proposed in the draft regulations are:

1. An earlier timetable for the preparation and publication of the statements of accounts where it is proposed to bring forward, from 2017/18 (but it is hoped that authorities will move to the new timetable as soon as they can) the existing dates of 30 June and 30 September to 31 May and 31 July, for accounts to be signed and certified by the Responsible Financial Officer and then approved and published.

In recent years we have presented the Statement of Accounts to the Corporate Management Team around the third week in May and as a result believe we can achieve the date of the 31 May for the preparation of the accounts, albeit there is a lot to do in a very short timescale. Our concern is, as the audits will have to be completed over a shorter period than is the case now will audit fees rise as a result.

2. Reform of the rules on the exercise of public rights to inspect the accounting records and to put objections and questions to the auditor where it is proposed to run the accounts inspection and objection periods together from a date determined by the completion of the annual accounts; and we support the proposal.

1.4.5 The return date for responses to the Consultation was 18 July 2014. As a result I sought the approval of your Chairman and the Chairman of the General Purposes Committee, together with the Leader of the Council and the Cabinet Member for Finance, Innovation and Property to my response to the Consultation. A copy of the response can be found at **[Annex 1]**. The Consultation runs to more than 80 pages so rather than reproduce in hard copy, the document can be found at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324239/Local_Audit_Consultation3.pdf

1.5 Legal Implications

1.5.1 Codes of audit practice will continue to be approved by Parliament.

1.6 Financial and Value for Money Considerations

1.6.1 The efficiency savings which have been realised by the Audit Commission in outsourcing its in-house audit will not be sustainable through individual and local procurement. Local bodies even procuring jointly will have a lower bargaining power than the Audit Commission does at present. In addition, to establish an independent auditor panel along the lines set out will bring additional work and cost. The proposal for audits to be completed over a shorter period than is the case now may see an increase in audit fees.

1.7 Risk Assessment

- 1.7.1 There is a risk that the reductions in the cost of audit services achieved in recent years will be eroded over time without that bulk purchasing power and for audit fees to increase as a result of the proposal for audits to be completed over a shorter period than is the case now.

1.8 Equality Impact Assessment

- 1.8.1 See 'Screening for equality impacts' table at end of report

1.9 Recommendations

- 1.9.1 Members are requested to **endorse** the response to the consultation as previously agreed with your Chairman and the Chairman of the General Purposes Committee, together with the Leader of the Council and the Cabinet Member for Finance, Innovation and Property.

Background papers:

contact: Neil Lawley

Nil

Sharon Shelton
Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The report provides an update on issues covered by the Local Audit and Accountability Act 2014 and sets out our response to the Local Audit Consultation published by the DCLG on 19 June 2014.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	See above.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable.

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.